

1 AN ACT concerning civil law.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Mental Health and Developmental  
5 Disabilities Confidentiality Act is amended by changing  
6 Section 11 as follows:

7 (740 ILCS 110/11) (from Ch. 91 1/2, par. 811)

8 Sec. 11. Disclosure of records and communications. Records  
9 and communications may be disclosed:

10 (i) in accordance with the provisions of the Abused and  
11 Neglected Child Reporting Act, subsection (u) of Section 5  
12 of the Children and Family Services Act, or Section 7.4 of  
13 the Child Care Act of 1969;

14 (ii) when, and to the extent, a therapist, in his or  
15 her sole discretion, determines that disclosure is  
16 necessary to initiate or continue civil commitment or  
17 involuntary treatment proceedings under the laws of this  
18 State or to otherwise protect the recipient or other person  
19 against a clear, imminent risk of serious physical or  
20 mental injury or disease or death being inflicted upon the  
21 recipient or by the recipient on himself or another;

22 (iii) when, and to the extent disclosure is, in the  
23 sole discretion of the therapist, necessary to the

1 provision of emergency medical care to a recipient who is  
2 unable to assert or waive his or her rights hereunder;

3 (iv) when disclosure is necessary to collect sums or  
4 receive third party payment representing charges for  
5 mental health or developmental disabilities services  
6 provided by a therapist or agency to a recipient under  
7 Chapter V of the Mental Health and Developmental  
8 Disabilities Code or to transfer debts under the  
9 Uncollected State Claims Act; however, disclosure shall be  
10 limited to information needed to pursue collection, and the  
11 information so disclosed shall not be used for any other  
12 purposes nor shall it be redisclosed except in connection  
13 with collection activities;

14 (v) when requested by a family member, the Department  
15 of Human Services may assist in the location of the  
16 interment site of a deceased recipient who is interred in a  
17 cemetery established under Section 100-26 of the Mental  
18 Health and Developmental Disabilities Administrative Act;

19 (vi) in judicial proceedings under Article VIII of  
20 Chapter III and Article V of Chapter IV of the Mental  
21 Health and Developmental Disabilities Code and proceedings  
22 and investigations preliminary thereto, to the State's  
23 Attorney for the county or residence of a person who is the  
24 subject of such proceedings, or in which the person is  
25 found, or in which the facility is located, to the attorney  
26 representing the recipient in the judicial proceedings, to

1 any person or agency providing mental health services that  
2 are the subject of the proceedings and to that person's or  
3 agency's attorney, to any court personnel, including but  
4 not limited to judges and circuit court clerks, and to a  
5 guardian ad litem if one has been appointed by the court,  
6 provided that the information so disclosed shall not be  
7 utilized for any other purpose nor be redisclosed except in  
8 connection with the proceedings or investigations;

9 (vii) when, and to the extent disclosure is necessary  
10 to comply with the requirements of the Census Bureau in  
11 taking the federal Decennial Census;

12 (viii) when, and to the extent, in the therapist's sole  
13 discretion, disclosure is necessary to warn or protect a  
14 specific individual against whom a recipient has made a  
15 specific threat of violence where there exists a  
16 therapist-recipient relationship or a special  
17 recipient-individual relationship;

18 (ix) in accordance with the Sex Offender Registration  
19 Act;

20 (x) in accordance with the Rights of Crime Victims and  
21 Witnesses Act;

22 (xi) in accordance with Section 6 of the Abused and  
23 Neglected Long Term Care Facility Residents Reporting Act;  
24 and

25 (xii) in accordance with Section 55 of the Abuse of  
26 Adults with Disabilities Intervention Act.

1 Any person, institution, or agency, under this Act,  
2 participating in good faith in the making of a report under the  
3 Abused and Neglected Child Reporting Act or in the disclosure  
4 of records and communications under this Section, shall have  
5 immunity from any liability, civil, criminal or otherwise, that  
6 might result by reason of such action. For the purpose of any  
7 proceeding, civil or criminal, arising out of a report or  
8 disclosure under this Section, the good faith of any person,  
9 institution, or agency so reporting or disclosing shall be  
10 presumed.

11 Notwithstanding any other rulemaking authority that may  
12 exist, neither the Governor nor any agency or agency head under  
13 the jurisdiction of the Governor has any authority to make or  
14 promulgate rules to implement or enforce the provisions of this  
15 amendatory Act of the 95th General Assembly. If, however, the  
16 Governor believes that rules are necessary to implement or  
17 enforce the provisions of this amendatory Act of the 95th  
18 General Assembly, the Governor may suggest rules to the General  
19 Assembly by filing them with the Clerk of the House and  
20 Secretary of the Senate and by requesting that the General  
21 Assembly authorize such rulemaking by law, enact those  
22 suggested rules into law, or take any other appropriate action  
23 in the General Assembly's discretion. Nothing contained in this  
24 amendatory Act of the 95th General Assembly shall be  
25 interpreted to grant rulemaking authority under any other  
26 Illinois statute where such authority is not otherwise

1 explicitly given. For the purposes of this amendatory Act of  
2 the 95th General Assembly, "rules" is given the meaning  
3 contained in Section 1-70 of the Illinois Administrative  
4 Procedure Act, and "agency" and "agency head" are given the  
5 meanings contained in Sections 1-20 and 1-25 of the Illinois  
6 Administrative Procedure Act to the extent that such  
7 definitions apply to agencies or agency heads under the  
8 jurisdiction of the Governor.

9 (Source: P.A. 94-852, eff. 6-13-06; 94-1010, eff. 10-1-06;  
10 95-331, eff. 8-21-07.)

11 Section 99. Effective date. This Act takes effect upon  
12 becoming law.